

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JOANNE HOLLAND,

Plaintiff,

-v-

ERIC K. SHINSEKI, Secretary  
of Veterans Affairs

Defendant.

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Civil No. 3:10-cv-0908  
ECF

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PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION FOR LEAVE TO FILE  
AMENDED PLEADING

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TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

NOW COMES Plaintiff JoAnne Holland and file this Plaintiff's Response to Defendant's Motion for Leave to File Amended Pleading and respectfully shows the Court the following:

Defendant represents to this Court that the amended motion is to "clarify and reorganize the undisputed facts in this matter and to add additional citations from the appendix to help aid the Court and opposing party in the review of the motion and supporting memorandum." [Document 23, p.1] However, the amendment fundamentally changes Defendant's Motion for Summary Judgment.

First, the proposed amendment turns what was previously a three-page fact section into over a twenty-page section of facts. Second, many of the facts in the proposed amended motion were not mentioned in the original motion or supporting memorandum. It is not a reorganization or clarification, but rather contains a significant amount of new material. By Defendant's own

admission this material was “already known” so there is no reason to allow this new material to be presented at this late of a stage.<sup>1</sup>

The amendment causes surprise and prejudice since it fundamentally changes the material and manner the Defendant previously presented his position to this Court and Plaintiff. Seven days have passed since the original filing and Plaintiff has already started her response based on the original filing. Simply put, Defendant had ample time to prepare his Motion for Summary Judgment and Plaintiff should not be penalized because Defendant felt his original motion needed clarification and reorganization.

However, if the Court does grant Defendant’s Motion for Leave to File Amended Pleading, Plaintiff requests that the time to respond under Local Rule 7.1 not start until Defendant’s Amended Motion is actually filed by Defendant.

WHEREFORE PREMISES CONSIDERED Plaintiff pray Defendant’s Motion for Leave be denied and for such other and further relief to which Plaintiff be justly entitled.

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<sup>1</sup> One of the many examples of new material is when Plaintiff’s Proposed Amended Motion for the first time states “Kurian interacted with Holland regarding the requirement for McClellan, her supervisor’s signature on her paperwork, and that Holland go through the “chain of command.” (App., pp.0054).” [Document 23-1, p.10-11].

Respectfully submitted,

By: */s/ Gregory A. Placzek*  
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CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2011, I served a copy of Plaintiff's Response to Defendant's Motion for Leave to File Amended Pleading on counsel for Defendant via the Court's CM/ECF electronic case filing system.

*/s/ Gregory A. Placzek*  
Gregory A. Placzek